

VZCZCXRO4233
OO RUEHCHI RUEHDT RUEHHM RUEHNH RUEHTRO
DE RUEHGO #0276/01 1340712
ZNY CCCCC ZZH
O 140712Z MAY 09 ZEL
FM AMEMBASSY RANGOON
TO RUEHC/SECSTATE WASHDC IMMEDIATE 8957
INFO RUCNASE/ASEAN MEMBER COLLECTIVE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE
RUEHBY/AMEMBASSY CANBERRA 1955
RUEHNE/AMEMBASSY NEW DELHI 5433
RUEHUL/AMEMBASSY SEOUL 9026
RUEHKO/AMEMBASSY TOKYO 6602
RUEAIIA/CIA WASHDC
RHHMUNA/CDR USPACOM HONOLULU HI
RUEHGV/USMISSION GENEVA 4418
RHEHNSC/NSC WASHDC
RUCNDT/USMISSION USUN NEW YORK 2409
RUEKJCS/SECDEF WASHDC
RUEHBS/USEU BRUSSELS
RUEKJCS/JOINT STAFF WASHDC

C O N F I D E N T I A L SECTION 01 OF 04 RANGOON 000276

SENSITIVE
SIPDIS

STATE FOR EAP AND IO; PACOM FOR FPA

C O R R E C T E D C O P Y (Change wording in Paragraph 6)

E.O. 12958: DECL: 05/13/2019
TAGS: [CASC](#) [PGOV](#) [PHUM](#) [PREL](#) [PINR](#) [BM](#)
SUBJECT: BURMA: AUNG SAN SUU KYI AND AMCIT JOHN YETTAW
CHARGED (CORRECTED COPY)

REF: A. RANGOON 271
[1](#)B. RANGOON 263
[1](#)C. RANGOON 273

RANGOON 00000276 001.2 OF 004

Classified By: P/E Chief Jennifer Harhigh for Reasons 1.4 (b) & (d)

Summary

[1](#)1. (C) On May 14 Aung San Suu Kyi (ASSK) and detained Amcit John Yettaw both appeared at Insein Prison Special Court for a hearing in connection with Yettaw's entry into ASSK's residence. Consular officer attended the proceedings and reports ASSK appeared healthy. Authorities charged Yettaw with violating immigration rules, trespassing, and abetting ASSK to violate terms of her house arrest. According to National League for Democracy (NLD) spokesman Nyan Win, Burmese authorities charged ASSK with violating the terms of her house arrest, which could carry up to five years' imprisonment. Separately, the Burmese Ministry of Foreign Affairs (MOFA) held a briefing for selected diplomats to detail the charges against Yettaw and ASSK.

[1](#)2. (C) We confirmed ASSK met with her lawyer twice May 13, prior to being transferred under heavy guard to Insein Prison the morning of May 14. According to the NLD, ASSK is currently being held in a house on the Insein Prison compound. ASSK and Yettaw are both scheduled to appear in court again on Monday, May 18. Draft press guidance follows in paragraph 16. End summary.

Aung San Suu Kyi, Yettaw Appear in Court

[1](#)3. (C) ASSK, her two live-in assistants, and detained Amcit John Yettaw appeared together in court at Insein Prison at 10 a.m. May 14 in connection with Yettaw's entry into ASSK's compound. Yettaw was the focus of the hearing, which lasted approximately 15 minutes. Two of ASSK's lawyers, Kyi Win

(aka Neville) and his assistant Hla Myo Myint, accompanied her into the courtroom. (Note: ASSK's personal physician, Dr. Tin Myo Win (aka Douglas) did not appear in court. End note.) Burmese authorities granted Embassy Rangoon Consular Officer (Conoff) and Senior Consular LES access to the courtroom following an Embassy request via dip note. Conoff observed Yettaw's hearing and spoke with him for an hour afterward, as ASSK conferred with her legal team nearby.

¶4. (C) Conoff saw ASSK but was not able to speak to her. Despite indications earlier this week that ASSK was suffering from mild dehydration and low blood pressure (Refs A and B), Conoff noted that she appeared healthy, was well-dressed, and in good spirits. Conoff observed her smiling, consulting with her lawyers and reading portions of the legal code. Approximately 40 guards and court officials were present in the hearing room; video cameras were plentiful.

¶5. (SBU) Authorities charged Yettaw with violating the Immigration Act by trespassing into a restricted area, and abetting ASSK to violate the terms of her house arrest. Yettaw's next court hearing is set for May 18.

¶6. (C) After the hearing, Yettaw told Conoff in the presence of Special Branch (SB) police and court officials that he is receiving medical treatment but is still refusing food in order to build his "spiritual strength" (Ref C). Yettaw requested Embassy assistance to hire a lawyer. During a private moment, he whispered to Conoff that ASSK had invited him into the residence but that she had then ordered him to leave and said she would call the police. Yettaw admitted he regrets any additional legal measures the Burmese authorities may impose on ASSK and said he intends to protect ASSK's interests in any statement he makes. In his remarks before the court, he made no reference to ASSK's alleged invitation, stressing only that she had urged him to depart.

RANGOON 00000276 002.2 OF 004

ASSK Charged with Violating Terms of House Arrest

¶7. (C) Authorities have charged ASSK under Article 22 of the State Protection Law for violating the terms of her house arrest, NLD spokesman Nyan Win later told us. (Note: Conoff did not witness any proceedings against ASSK at the 10 a.m. session.) According to Article 22, if a person "opposes, resists, or disobeys" a state-issued restriction order, that person is liable for up to five years' imprisonment, a fine, or both. Burmese authorities will likely argue that ASSK disobeyed her house arrest order (technically set to expire May 27) by accepting Yettaw into her home and failing to notify police of his intrusion.

¶8. The NLD's Central Executive Committee (CEC) released a statement May 14 objecting to the charge and her transfer to a house located in the Insein Prison compound.

MOFA Briefs Diplomats on Charges against Yettaw, ASSK

¶9. (SBU) Meanwhile, MOFA summoned diplomats from India, China, Singapore, Russia, Thailand, EU, UN, and the U.S. to a briefing May 14 on the charges against Yettaw and ASSK. The UK and Australia, though not originally invited, also attended. Deputy Director General of Protocol Myint Soe told assembled diplomats the U.S. Embassy had contacted MOFA via diplomatic note May 11 to request consular access to Yettaw. On May 13, MOFA granted access. (Note: Charge clarified for the group that Embassy sought consular access through usual channels starting May 7, immediately after MOFA notified us of the arrest of an Amcit. End note.) Myint Soe said this was the second secret visit by Yettaw to ASSK's compound; the first had been November 30, 2008 when he spent two nights at the residence and met Aung San Suu Kyi. (Note: Yettaw denies that during his first visit he entered ASSK's house, spent the night, or met ASSK.. He told us he simply had left

a copy of the Book of Mormon on her doorstep. End note.)

¶10. (C) Myint Soe briefly described the charges against ASSK and Yettaw but declined to speculate as to possible penalties. After the group meeting, he privately assured Charge three times that "everything will turn out fine" regarding Yettaw's case. He offered no such assurances regarding ASSK.

¶11. (SBU) Although Myint Soe asked diplomats to refrain from questions, the Australian, British, Indian, and Italian (who represents the EU locally) envoys joined the Charge in expressing our governments' concerns about the health of ASSK and her being taken into court. Thai, Singapore, Russian, UN, and Chinese diplomats did not speak up. Charge added that there is intense interest in Washington about both Yettaw's and ASSK's court cases. Privately, Charge reiterated to Myint Soe, who seemed well aware, that Yettaw has serious medical issues.

Lawyer Describes May 13 Meeting with ASSK

¶12. (C) On May 14, Neville told us Burmese authorities allowed him to meet with ASSK twice on May 13. He initially met her from 4 p.m. to 5:30 p.m. to discuss her denied appeal (Ref B), and again from 7:15 p.m. to 8 p.m. to discuss the court summons she received in conjunction with the Yettaw case. When asked, Neville said ASSK's health "is fine." He added that she commented "Americans have been very helpful, except for this special case." Neville characterized Yettaw as the "main problem" in ASSK's legal case, and he said his client had asked Yettaw to leave her compound. Neville said he expects authorities to keep ASSK in Insein Prison environs

RANGOON 00000276 003.2 OF 004

for the time being.

ASSK's May 14 Transfer to Insein Prison

¶13. (C) According to RSO sources, an estimated 150 security personnel escorted ASSK and her two aides, Khin Kyin Win and Win Ma Ma (aka Win Pa Pa) from her University Avenue home around 7 a.m. May 14 to Insein Prison, where she arrived at about 7:30 a.m. NLD spokesman Nyan Win told us that ASSK, her aides, and Yettaw are expected to remain at Insein Prison for at least the night -- ASSK apparently will stay in a house on the prison grounds. Others speculated she could be held for the duration of the trial. External media sources report police collected belongings from her residence, suggesting an extended absence. Two caretakers, including ASSK's regular food deliverer, have her house keys and will look after her compound while she is gone, according to Neville.

Comment

¶14. (C) It appears pretty clear that, as previously speculated, the regime sees the Yettaw incident as an opportunity to tar ASSK with criminal charges (which can carry up to five years' incarceration) prior to the May 27 scheduled expiration of her house arrest. Given that ASSK's house arrest was unjust to begin with, any such attempt to tack on more time is even more unjust and we recommend a public statement to that effect, as well as an effort to urge like-minded allies to join us in condemning such actions.

¶15. (C) In the meantime, we are seeking consular access to attend Yettaw's May 18 hearing. Given MOFA's private intimations (repeated thrice) that "everything would turn out fine," we believe it is possible Yettaw could be deported once the regime has exploited him to get at their real target.

Press Guidance

¶16. (U) Begin proposed language for a statement or press guidance:

-- On May 14 John Yettaw had a hearing at Insein Prison Special Court in Rangoon related to his entry into the residence of Aung San Suu Kyi. Burmese authorities granted a U.S. Embassy consular officer access to the courtroom to observe the hearing.

-- Burmese authorities have informed us that Mr. Yettaw faces charges related to immigration, trespassing into a restricted zone, and abetting actions by Aung San Suu Kyi that violate the terms of her house arrest.

-- We consider Aung San Suu Kyi's house arrest to be illegitimate and a breach of her fundamental human rights, and we are extremely concerned that Burmese authorities may misuse the incident involving Mr. Yettaw to place further unjustified restrictions on her, such as by extending her house arrest.

-- Mr. Yettaw is scheduled for a second hearing on May 18. We continue to stress to Burmese authorities the U.S. Government's strong interest in Mr. Yettaw's case and our concerns for his health, welfare, and fair treatment.

-- We call on Burmese authorities to cease their efforts to exploit Mr. Yettaw's case for political purposes.

-- We urge the authorities to release Aung San Suu Kyi immediately, along with the over 2100 other political prisoners in Burma.

RANGOON 00000276 004.2 OF 004

DINGER